The U.S. Legal System and Using Legal Resources

Chapter 2

Relationship of the Law to the Branches of Government

Branch of Government	Legislative Branch	Executive Branch	Judicial Branch
Source of Law	Congress and state legislatures	President or governor, administrative agencies	Federal and state courts
Type of Law	Statutes	Executive orders, agency regulations	Case law/common law
Role of Branch	Enact new laws, amend existing laws	Enforce existing laws	Interpret Constitution and other existing laws

The U.S. Legal System and the Rule of Law – Sources of Law

- Constitution
- Statutes
- Regulations
- Common Law/Cases

Judicial System – Hierarchical

Federal Court Hierarchy	State Court Hierarchy
U.S. Supreme Court	State Supreme Court
U.S. Court of Appeals	State Intermediate Court of Appeals
U.S. District Court	State Trial Courts

U.S. Supreme Court

- Court of last resort, supreme law of the land
  - Decisions are binding on all state and federal courts
- Jurisdiction is Discretionary
  - Court decides when to hear (grant *certiorari*) appealed cases
- A case may be appealed only on grounds of *legal error.*

Appellate Courts May…

- Affirm decisions of lower court
- Reverse decisions
- Remand cases back to the lower court

Criminal vs Civil Lawsuits

CRIMINAL

- A crime against the state
- Trial by a jury of one's peers is guaranteed, but may be waived in some circumstances
- Burden of proof - guilty beyond a reasonable doubt

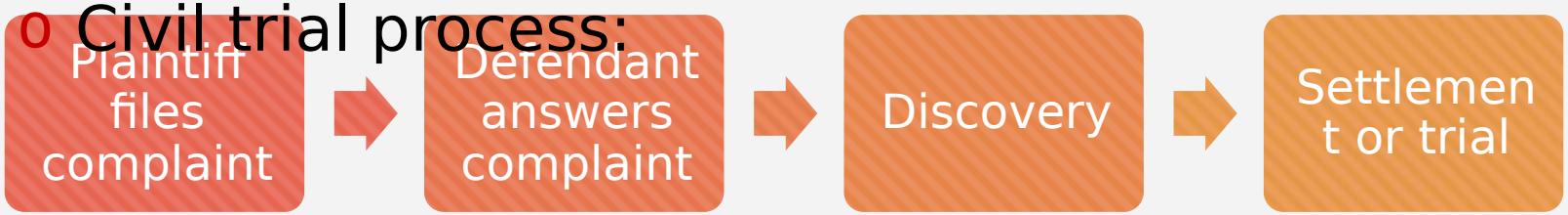
CIVIL

- All cases that are not criminal – contracts, torts, discrimination
- May involve a jury, or a judge with no jury
- Burden of proof - A preponderance of the evidence

Civil Cases

- Most sport law cases are brought in civil court

- Civil trial process:



Concluding a Trial

- Decision on the full merits of the case
- Motion to dismiss for failure to state a claim
- Motion for summary judgment
- Preliminary injunction

Decision-Making Processes of the Courts

Courts interpret and apply:

- Statutes
- Regulations
- Constitutions
- Prior Court Decisions
  - Binding Precedent vs Persuasive Precedent

Interpretation of Statutes

Canons of statutory construction

Potential problems:

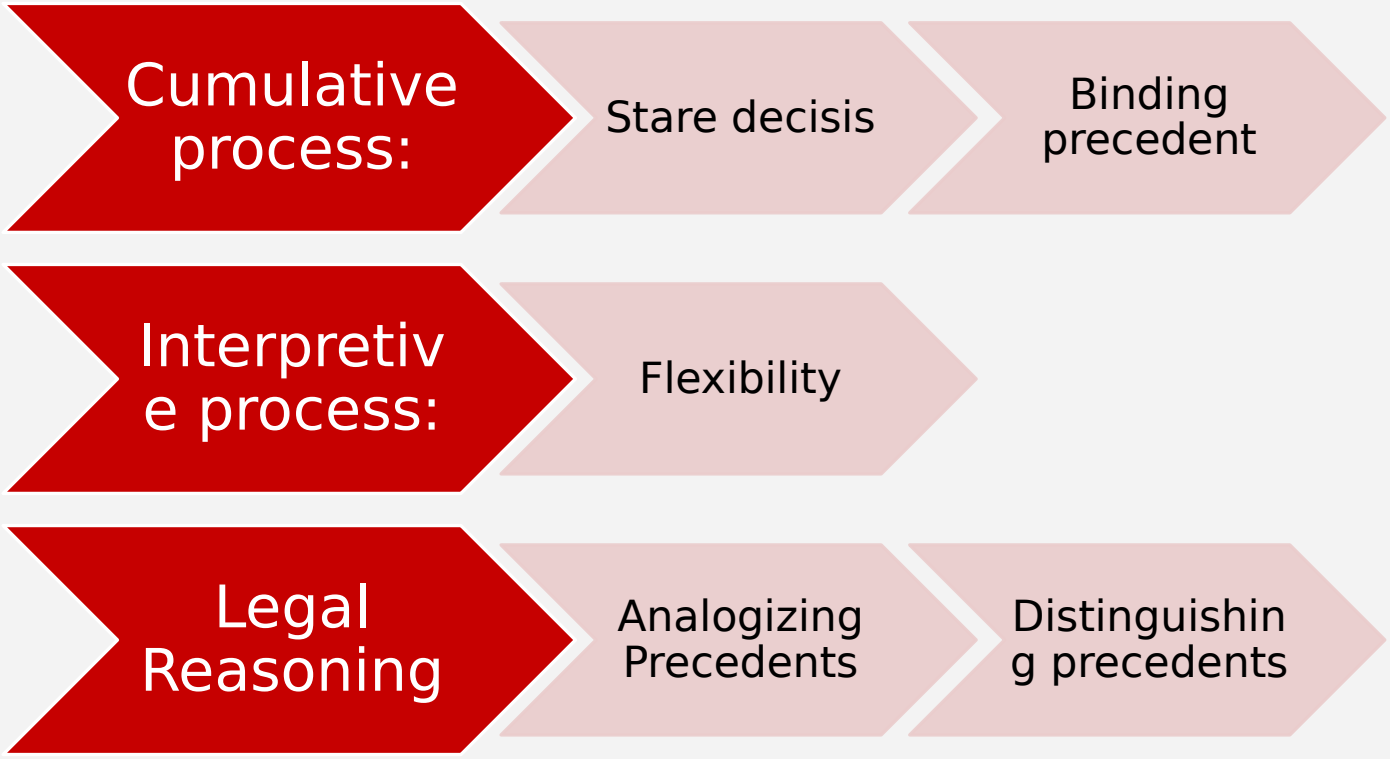
1. Canons may contradict one another
2. Statutes may be out of date
3. Language may be ambiguous

Legal Review

What are the pros/cons of interpreting a statute literally or broadly? Why?

Does it make a difference how old the statute is, how clearly it's written, or the social context in which the statute was enacted?

Interpretation of Common Law



Competitive Advantage Strategies The U.S. Legal System

Pay attention to statements in the news about how the U.S. legal system works.

Talk to a trusted colleague if you have a concern about a legal problem, to role-play various arguments and clarify the arguments.

Alternative Dispute Resolution

To resolve a conflict and avoid a lengthy trial

- Arbitration
  - Neutral arbitrator makes final, binding resolution
- Mediation
  - Trained mediator assists in negotiating a settlement, but no authority to resolve dispute

Some sport examples:

- Players' contracts
- Collective-bargaining agreements

Primary Legal Resources

- Constitutions
- Statutes
- Regulations
- Court decisions (case reporters)

COURT	REPORTERS	ABBREVIATIONS
U.S. District Courts	*Federal Supplement* (1st and 2nd Series)	F. Supp. and F. Supp. 2d
U.S. Courts of Appeals	*Federal Reporter* (1st, 2nd, & 3rd Series)	F., F.2d, and F.3d
U.S. Supreme Court	*U.S. Supreme Court Reports*	U.S.
	Supreme Court Reporter	S.Ct.
	Lawyer's Edition (1st and 2nd Series)	L.Ed. and L.Ed.2d

Secondary Legal Resources

- Law dictionaries
- Legal encyclopedias
- Case summaries
- Restatements
- Treatises and hornbooks
- Law reviews and business publications
- Digital legal resources
- Legal Blogs and Podcasts
- Websites
- Shepard’s Citations

Some Law-Related Websites

- www.findlaw.com
- www.law.com
- Library of Congress “Thomas” website: http://thomas.loc.gov/home/thomas.php
- Gender Equity in Sports (University of Iowa): http://bailiwick.lib.uiowa.edu/ge/
- Cornell Law School’s Legal Information Institute: www.law.cornell.edu
- Sports & Recreation Law Association (SRLA): www.srlaweb.org

Good Legal Research

1. Identify the specific issue to be researched.
2. Find the relevant law.
3. Read and summarize the law.
4. Update the relevant law.
5. Organize the information you have collected.

When Identifying Your Issue, Consider…

- Parties
- Objects
- Places
- Basic issue of the case
- Possible defenses
- Relief desired

Competitive Advantage Strategies
Putting Legal Strategies to Work

Research	Consult	Prevent	Understand
Conduct preliminary research on an issue to determine if you need legal advice.	Consult a lawyer to make sure a certain legal principle is relevant to the issue.	Use a preventive law approach and use a lawyer to help draft contracts and policies, and to help with risk management planning.	Have a working understanding of basic legal issues.

Components of a Case Brief

Citation information

Facts

Issues presented

The holding

The rationale

A Framework for Organizing Legal Information—FIRAC

Facts

Issue

Relevant law

Application of the law

Conclusion

Legal Review

- **An ordinance in the city park reads, “No vehicles allowed!”**
- **In your opinion, does this include:**
  - Motorized wheelchairs?
  - Emergency vehicles?
  - Electric scooters?
  - Baby strollers?
  - Tonka dump trucks and Matchbox cars?